IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.4961 OF 2003

Dr.Haresh Kumar T. Dharma & Anr. ..Petitioners

Vs.

Union of India & Ors. ..Respondents

Mr.V.M.Thorat with Mr. C.H. Pursnani for Petitioner
Mr.Rajiv Chavan i/b. H.D. Rathod for Respondent No.1
Ms. Simran Puri for Respondent No.2
Mr. C.R. Sonawane, A.G.P. for Respondent No.4
Mr. Madhav Jamdar for Respondent No.3

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 7TH MARCH, 2005.

P.C.

. The Petitioners have approached this Court for various reliefs. The main relief is for issuance of Registration Certificate under Section 14 of the Indian Medical Council Act, and for a further declaration that the amended provisions of the Indian Medical Councils Act have no relevance and are inapplicable to the case of the Petitioners. The amendment is to schedule II in terms of the Section 12 of the Act.

. From the reliefs sought it is clear that the main relief was under Section 14 of the Indian Medical Council Act. Under Section 14 it is open to the Central Government after consultation with the

Medical Council, by notifications in the official gazette to direct that Medical qualifications granted by Medical Institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of Medical qualifications granted by Medical Institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of medical qualification is not in force, shall be recognised medical qualifications for the purpose of the Act or shall be so only when granted after a specified date. The Central Government thereafter, after consulting with the Council by notification in official gazette can direct that it shall be a recognised Medical qualifications, only when granted before a specified date. It will not be open to the Court to issue a direction to the Central Government, to exercise its power of Subordinate legislation in issuing such a notification. That is entirely with the province of the Central Government.

2. Learned Counsel points out that the Petitioner would have been eligible under section 12 as the qualification of the Petitioners were included in the second schedule at the time when they applied. It is subsequently in 2002 that there has been omission from the second schedule.

. From the record we find that the only application by the Petitioners were under Section 14 of the Medical Council Act. Considering the above it cannot be said as is being contended by the Petitioner No.2 that as he had applied before the amendment his application under Section 14 should have been considered as an application under Section 12. Petitioner No.1 admittedly has applied much later i.e. after 1999. They did not apply under Section 12 consequently there was no question of they being recognised. The Medical qualifications which were earlier indicated in the schedule have been subsequently by a notification excluded. Apart from that assuming that the qualifications were included in the Second Schedule, the Petitioners at the highest could have practiced as long as the degree was included in the Second Schedule. As soon as it was excluded they could not have continued to remain on the register either of the Medical Council of India or of a State Medical Council.

3. It is not as if the Petitioners are not eligible to practice in India. They however, have to pass the screening test conducted by the Medical Council of India. Considering the above in our opinion it will not be possible for this Court to grant any relief.

. It will be open to Respondents if so advised to consider the applications moved by the Petitioners under Section 14 and pass appropriate orders.

. With the above observations, Petition stand disposed of. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)